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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,375	11/25/2003	Keith W. Atkinson	4164-272	8007

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

EXAMINER	
EPSHTEYN, ALEXANDER	
ART UNIT	**PAPER NUMBER**
3714	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/723,375	ATKINSON ET AL.	
	Examiner	Art Unit	
	Alex Epshteyn	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *10-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/12/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9, drawn to establishing a wireless session in a gaming network that tracks and monitors the data on the gaming network, classified in class 463, subclass 42.

II. Claims 10-13, drawn to a system for establishing and communicating data over a wireless network, classified in class 370, subclass 310.

III. Claims 14-20, drawn to a method for completing a transaction over a wireless network, classified in class 370, subclass 278.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination. The subcombination has separate utility such as any establishment or transfer of wireless data such as mobile communications or wireless Internet.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2)

that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination. The subcombination has separate utility such as any transaction that is completed on a wireless network such as online purchases or mobile communications.

Inventions II and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination since establishing a wireless data over a wireless network does not particularly involve completing a transaction as defined in the claims. The subcombination has separate utility such as any transaction in a wireless environment such as downloading a file or object.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such

claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

A phone call was placed to David P. Olynick on September 21, 2006 and election without traverse of group I, claims 1-9 was made. Claims 10-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the phone call placed on September 21, 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brosnan et al. (US Patent 6,682,423).

Regarding claim 1, Brosnan teaches of a gaming network comprising a plurality of gaming machines, one or more information servers coupled to the plurality of gaming machines, the one or more information servers structured to store data related to the plurality of gaming machines and related to players of the gaming machines, and to generate data for use on the gaming machine (6: 15-46). The gaming network can use a wireless server coupled to the one or more information servers with a wireless receiver structured to couple to the secure wireless server and to create a data channel between the wireless server and the wireless receiver (10: 2-47).

Regarding claim 2, the wireless server is structured to create a session with the secure wireless receiver, where the session is created when a player inserts a player tracking card that communicated with the game server to execute the functions of player tracking (19: 30-57). In other embodiments a session is created when a gaming machine needs to be updated (20: 14-30).

Regarding claim 3, the session is limited in duration since the session only lasts during the time the player is playing at the gaming machine (19: 30-57).

Regarding claim 5, Brosnan teaches of a system for redeeming tickets comprising one or more information servers on a gaming network, the one or more information servers configured to store data related to past play of gaming machines and related to players of the gaming machines, and to generate data for use on the gaming network (19: 30-58). The data stored on the one or more information servers related to transactions previously memorialized by a ticket (18: 47-55). The system further includes a wireless server and receiver as described above.

Regarding claim 6, the system includes a session detector, where the session detector is a card reader used to initiate a gaming session for a player (19: 30-45).

Regarding claim 7, the system includes a ticket validator configured to determine if a particular ticket identifier correctly identifies a previously memorialized transaction (18: 18-27).

Regarding claim 8, the ticket identifier correctly identifies a previously memorialized transaction (18: 18-27). The information servers are configured to then generate redemption data (18: 46-55).

Regarding claim 9, the system of Brosnan inherently includes information from the system for the data and time ticket redemption was redeemed. This is a necessary embodiment of any player tracking system so that system knows whether or not awards were redeemed so the player cannot receive the same reward twice.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan.

While Brosnan does not explicitly teach of establishing a session only in certain time periods, it would be obvious for one skilled in the art to establish such a criteria in the invention of Brosnan. One reason this would be an obvious variation is for a session in which a gaming machine is to be updated. A criterion could be set that a gaming machine is only to be updated during non-peak hours so as to not interfere with potential play of the gaming machine. Other obvious variations of Brosnan would be to

establish a certain time period for a bonus pool or special variations of a particular game.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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XUAN M. THAI
SUPERVISORY PATENT EXAMINER
TC3700